



Federal Communications Commission
Washington, D.C. 20554

June 17, 2016

G.I.G. of North Dakota, LLC
P.O Box 88336
Sioux Falls, SD 57109

Aaron P. Shainis
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1850 M Street, NW
Suite 240
Washington, DC 20036

Re: KCPM(TV), Grand Forks, ND
Facility ID No. 86208
File No. BRC DT-20140401AOQ

Dear Licensee/Counsel:

This letter in regards to the above captioned "Application for Renewal of Broadcast Station License," concerning Station KCPM(TV), Grand Forks, North Dakota (Station), licensed to G.I.G. of North Dakota, LLC (Licensee or GIG)¹ and is being issued pursuant to Section 1.88 of the Rules in order to develop a more complete record and evaluate the appropriate form of action that should be taken by the Commission against the Licensee.² A review of the Station's electronic local public inspection file (e-pif) by Video Davison (Division) staff has revealed that all but a few documents required to be prepared and placed in the Station's e-pif pursuant to Section 73.3526 of the Commission's rules (Rules) are missing.³ Those documents that were filed were both filed late and appear to contain inaccuracies. In addition, the Licensee both filed its license renewal application four months after the filing deadline and subsequent to expiration of the Station's license.

Section 73.3526 of the Rules requires each commercial broadcast licensee to maintain a public file containing information related to a station's operations.⁴ Commercial broadcasters public file requirements include, but are not limited to the preparation of: quarterly TV issues/programs lists;⁵ quarterly certifications of compliance with children's programming commercial limits;⁶ and quarterly filing of Children's Television Programming Report (FCC Form 398).⁷ In 2012, the Commission adopted Section 73.3526(b) of the Rules, which requires licensees to upload elements of Stations' physical public file to an on-line Commission hosted

¹ File No. BRC DT-20140401AOQ (KCPM Renewal).

² 47 C.F.R. § 1.88.

³ 47 C.F.R. § 73.3526, *generally*.

⁴ *Id.*

⁵ 47 C.F.R. § 73.3526(e)(11)(i).

⁶ 47 C.F.R. § 73.3526(e)(11)(ii).

⁷ 47 C.F.R. § 73.3526(e)(11)(iii).

website (i.e., a Station's e-pif).⁸ The Commission's e-pif requirement was implemented as a means to modernizing the way that television broadcaster's "inform the public about how they are serving their communities...."⁹ Broadcasters' e-pif requirements were phased in between August 2012 and February 2013. Beginning August 2, 2012, stations were required to post any document that would otherwise be placed in a station's public file, with limited exception, to their e-pif on a moving forward basis. By February 4, 2013, stations were required to upload to their e-pif, with limited exceptions, documents that were already in their physical public file prior to August 2, 2012.¹⁰

Upon review of the Station's e-pif and license renewal application it is evident that GIG has failed to prepare, place, and/or file almost every public file document during the course of the preceding license term as required by Section 73.3526 of the Rules.¹¹ The only required public file documents found by Division staff were the Station's Children's Television Programming Reports for the first quarter of 2010, fourth quarter of 2009, and all quarters of 2013. Although filed, each of these reports were filed late and the 2013 reports appear to have miscalculated the average amount of weekly children's programming aired. GIG states in its license renewal application that an amendment would be filed with regards to the Station's public file and with regards to the Station's missing Children's Television Programming Reports, "placement on [the] Commission's website is in process."¹² The Station's license renewal application was filed over two years ago and no amendments have been filed, nor have any missing public file documents been placed in the Station's e-pif.

Section 73.3539(a) of the Rules requires a broadcast television license renewal application to be filed "not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed...."¹³ The stated expiration date on the station's license was 3:00 a.m. local time on April 1, 2014. Therefore, the Licensee was required to have filed an application for renewal of the license no later than December 1, 2013. The Licensee did not file

⁸ 47 C.F.R. § 73.3526(b); see *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, Extension of the Filing Requirement for Children's Television Programming Report*, Second Report and Order, 27 FCC Rcd 4535 (2012) ("Second R&O") (requiring broadcast television stations to post their public inspection files, with limited exception, to an online Commission-hosted database).

⁹ *Second R&O*, 27 FCC Rcd at 4536.

¹⁰ See *Effective Date Announced for Online Publication of Broadcast Television Public Inspection Files*, Public Notice, 27 FCC Rcd 7478 (2012) (announcing effective date of electronic public file rule); *Television Broadcast Stations Reminded of Their Online Public Inspection File Obligations*, Public Notice, 27 FCC Rcd 15315 (2012) (reminding station's to upload copies of existing public file documents to their electronic public file); *Television Broadcast Stations Reminded of the Upcoming Public Inspection Filing Deadline*, Public Notice, 28 FCC Rcd 429 (2013) (providing a final reminder to broadcasters to upload copies of existing public file documents to their electronic public file); see also *Second R&O*, 27 FCC Rcd at 4580, para. 97 (establishing compliance periods for complying with broadcasters new electronic public file requirement).

¹¹ 47 C.F.R. § 73.3526.

¹² KCPM Renewal, Exhibits 20 and 27.

¹³ 47 C.F.R. § 73.3539(a).

its license renewal application until April 1, 2014, both four months after the filing deadline and hours after the license had expired.¹⁴

In order to determine whether the Station has met its obligation under Section 309(k) of the Communications Act of 1934, as amended,¹⁵ GIG must answer the following questions and provide the following information, including uploading all missing documents to its e-pif to the extent requested below.

- 1) Please place in the Station's e-pif and as necessary file with the Commission all public file documents required under Section 73.3526 of the Rules. Such documents should include, but are not limited to, the Station's quarterly TV issues/programs lists, quarterly Children's Television Programming Reports, and quarterly documentation demonstrating compliance with the Commission's commercial limit rules (commonly referred to as Commercial Limit Certifications). The Station's public file documents should cover the entire preceding license term, which for purposes of our investigation remains open and commenced on July 16, 2007, the date of grant of the Station's original license to cover.¹⁶
- 2) Please identify each document that was not prepared, placed, and/or filed as required by Section 73.3526,. GIG should make note of any documents that may have been prepared in a timely manner, but were only placed in the Station's physical local public inspection file. GIG should also provide a detailed explanation as to why required public file documents were not prepared, placed, and/or filed as required by Section 73.3526 of the Rules. If the Licensee failed to prepare any required public file documents the Licensee should accurately recreate those documents from its records. If a document cannot be recreated the Licensee should note the reason in its response.
- 3) Please provide a comprehensive list of any documents that are required under Section 73.3526 of the Rules to be prepared, placed, and/or filed, but are not applicable to the Station and therefore not in the Station's e-pif. For example, if GIG is not a party to a Joint Sales Agreement it need not place a copy of such an agreement into the Station's public file.
- 4) Please explain why the Station's license renewal application was not filed until April 1, 2014, four months after the filing deadline.
- 5) In response to Question 7 of each of the Station's 2013 Children's Television Programming Reports, GIG states that the Station aired an average of five (5) hours per week of children's programing over the course of each quarter. A staff review of the programs listed in each report revealed that based on the total

¹⁴ According to Commission records the license renewal application was not filed with the Commission until after 4:07 p.m. local time, which is over thirteen (13) hours after the Station's license expired. When a Station fails to file a license renewal application prior to expiration of its licensee, the Station must file a request for special temporary authority to continue operating while its license renewal application is pending. No such STA request has been filed. Accordingly, any operation since license expiration may be construed as operation without a valid instrument of authorization, a violation of 47 U.S.C. § 301.

¹⁵ 47 U.S.C. § 309(k).

¹⁶ See File No. BLCT 20040105ACS.

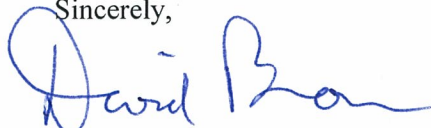
number of programs aired the average listed may be incorrect. Please review these reports for accuracy, confirm how the reports are accurate giving the specific steps used to determine accuracy, and as necessary amend the reports.

- 6) Review the Station's e-pif and the Commission's Licensing Management System (LMS) to ensure that all required information, including contact information is provided and accurate. In particular, the Licensee must provide the Station's main studio address on the main page of its e-pif and in LMS. The Licensee must also list a closed captioning contact on the main page of its e-pif.
- 7) Disclose any other violations of Commission rules or the Act that have not been addressed by the inquiries in this letter and should be disclosed as part of the Station's license renewal application.
- 8) Along with the Station's written response, please include a declaration by an individual(s) with personal knowledge of the facts and signed under penalty of perjury that the facts and information provided in response to the questions herein are both true and correct.

We encourage GIG to review its responses to all questions in the renewal application for accuracy and remind GIG of its responsibility to maintain the accuracy and completeness of all information provided to the Commission in an application.¹⁷ Any required amendments to the renewal application, placement of documents in the Station's e-pif, or filing of documents with the Commission, absent a showing of good cause, must be completed within **thirty (30) days** of the date of this letter. Failure to respond to this letter and provide the requested information within the time period allotted may result in designation of the Station's license renewal application for hearing.

GIG's response to this inquiry must be filed with the Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554, ATTN: Evan S. Morris, Video Division, Media Bureau, within **thirty (30) days** of the date of this letter. An electronic copy should also be sent to evan.morris@fcc.gov.

Sincerely,



David Brown
Deputy Chief, Video Division
Media Bureau

¹⁷ 47 C.F.R. § 1.65; *see also* 47 C.F.R. § 73.3514(a) (requiring applicants to provide all information called for in an application).